IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.388 OF 1992.

The State of Maharashtra : Appellant.

versus

Ramchandra Dharma Urankar & ors. : Respondents.

ALONG WITH

FIRST APPEAL NO.697 OF 1992

Ramchandra Dharma Urankar & ors. : Appellants.

versus

The State of Maharashtra : Respondent.

Mr.B.R.Patil, Acting Government Pleader for State

Mr.D.S.Sawant for the claimants

CORAM : D.G.DESHPANDE,J.

DATED : 19th APRIL 2005.

ORAL ORDER

1. Heard the learned AGP for the State and the advocate for the claimants. Both the appeals arise out of the judgment of the reference Court dated 8.8.1991 under the Land Acquisition Act. The State has filed the appeal to challenge the enhanced compensation and, the claimants have filed the appeal for further enhacement.

2. Lands admeasuring 8772 sq.mtrs of the claimants were acquired by the Government from village Wadghar Tal.Panvel for New Bombay Project. The reference Court has awarded compensation at the rate of Rs.10 per sq.mtr. to the claimant. According to the learned AGP for the State, that is on higher scale, whereas, according to the claimant, it is not the proper compensation.

2. This Court in an appeal bearing Appeal No.758 of 1988 decided on 3.7.2004 by the Division Bench of this Court [comprising of Justice Patankar and Justice Kakade] fixed price of Rs.12.50/- per sq.mtr. for the land from

village Wadghar. Both the learned AGP for the State and the advocate for the claimant agree that, that judgment will have to follow. However, the advocate for the claimants pointed out that the Division Bench has deducted 20% for development charges. The learned Government Pleader contended that in view of the judgment of the Supreme Court reported in (2003) 1 SCC 354 [Kasturi and others v. State of Haryana) development charges are required to be deducted from the amount of compensation and in that case the Supreme Court deducted 20% in stead of normal 1/3rd. In view of this judgment, 20% development charges would be proper. In view of this, the following order :-

:ORDER:

The appeal filed by the State is dismissed.

The appeal filed by the claimants is partly allowed.

The claimanst will be entitled to the compensation at the rate of Rs.12.50/- per sq.mtr with proporationate enhancement in the statutory benefits.

From the amount so awarded to the claimants, there shall be deduction of development charges at 20% .

No order as to costs.

[D.G.DESHPANDE]

19/04/2005 JUDGE.